

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

| | | |
|----------------------------|---|-----------------------|
| DURAN IRVIN, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | C.A. No. 04-10391-EFH |
| |) | |
| ANDREA CABRAL, Sheriff and |) | |
| MARY ELLEN MASTRORILLI, |) | |
| Superintendent, |) | |
| Defendants. |) | |

MEMORANDUM AND ORDER

On February 23, 2004 plaintiff filed a civil rights complaint concerning the denial of his inmate marriage request and naming as defendants Sheriff Cabral¹ and Superintendent Mastrorilli.

For the reasons set forth below, plaintiff is directed to either pay the requisite filing fee or submit an Application to Proceed Without Prepayment of Fees and Affidavit accompanied by a copy of his certified institutional account statement or this action will be dismissed without prejudice. The Clerk will be directed to (1) correct the docket and (2) send a copy of this Memorandum and Order to the authorities at the Suffolk County Jail and House of Correction.

DISCUSSION

A party filing a civil complaint in this Court must either (1) pay the \$150.00 filing fee or (2) file an

¹The complaint misspells Sheriff Cabral's name as Cabrawl and the clerk will be directed to correct the docket.

Application to Proceed Without Prepayment of Filing Fees and Affidavit. See 28 U.S.C. 1914(a) (\$5.00 filing fee); 28 U.S.C. 1915 (proceedings in forma pauperis).

Because plaintiff is incarcerated, he is advised that pursuant to 28 U.S.C. § 1915(b)(1), prisoners are required to pay the full amount of the filing fee. A Prisoner must also provide a certified statement of the amount of funds in his institutional account. See 28 U.S.C. § 1915(a)(2). If plaintiff files an application to proceed without prepayment of fees, the Court will direct the appropriate prison official to withhold from his prison account and pay to the court an initial payment towards the \$150.00 filing fee. The appropriate prison official will also be directed to collect from plaintiff's prison account on a continuing basis each month until such time as the \$150.00 statutory filing fee is paid in full.

Plaintiff is further advised that if he pays the fee or files an Application to Proceed Without Prepayment of Fees and Affidavit, his complaint is subject to preliminary screening pursuant to 28 U.S.C. §§ 1915, 1915A.

ORDER

Based upon the foregoing, it is hereby ORDERED that if plaintiff wishes to proceed with this action, he shall file,

within forty-two (42) days of the date of this Memorandum and Order, an Application to Proceed Without Prepayment of Fees and Affidavit accompanied by a copy of his certified institutional account statement or pay the \$150.00 filing fee.

The Clerk shall (1) correct the docket so that it correctly spells the name of the Suffolk County Sheriff as Andrea J. Cabral and (2) send plaintiff an Application to Proceed Without Prepayment of Fees and Affidavit with this Order.

SO ORDERED.

Dated at Boston, Massachusetts, this 31st day of March, 2004.

/s/ EDWARD F. HARRINGTON
EDWARD F. HARRINGTON
UNITED STATES SENIOR DISTRICT JUDGE